

IN THE MATTER OF BRUCE WHITE, :
EWING TOWNSHIP BOARD OF : COMMISSIONER OF EDUCATION
EDUCATION, MERCER COUNTY. : DECISION
_____ :

SYNOPSIS

This matter arose from a complaint alleging that respondent, former member of the Ewing Township Board, violated *N.J.S.A.* 18A:12-24(c) of the School Ethics Act (Act) when, as a member of that Board, he voted on the payment of tuition to the Mercer County Vocational School Board, where he was employed as a principal.

The School Ethics Commission (Commission) concluded that respondent did have an indirect financial involvement that a reasonable person could perceive as impairing his objectivity or independence of judgment since respondent's employer acquired funds from the tuition payment that the Ewing Board paid. Thus, his conduct of voting on the payment did violate the Act. The Commission recommended penalty of censure.

Initially, the Commissioner emphasized that the determination of the Commission as to violation of the Act is *not reviewable by the Commissioner*. The Commissioner's jurisdiction is limited to reviewing the sanction to be imposed following a finding of violation by the Commission. Upon independent review of the record, the Commissioner found and determined that the Commission's recommended penalty to censure respondent was an appropriate penalty.

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The record of this matter and the decision of the School Ethics Commission (“Commission”), including the recommended penalty of censure, have been reviewed.

This matter comes before the Commissioner to impose a sanction upon Respondent Bruce White, former member of the Ewing Township Board of Education, based upon findings of fact and conclusions of law by the Commission that he violated *N.J.S.A.* 18A:12-24(c) of the School Ethics Act when, as a member of the Ewing Township Board of Education, he voted on the payment of tuition to the Mercer County Vocational School Board, where he is employed as a principal.

Upon issuance of the decision of the Commission, respondent was provided 13 days from the mailing of such decision to file written comments on the recommended penalty for the Commissioner’s consideration. Respondent’s comments, in large measure, deal with objecting to the standard utilized by the Commission in finding him guilty of a School Ethics Act violation and complaints regarding the individual who initiated the charge against him. He additionally challenges the authority of the Commission to impose a sanction on him since he is

no longer a board member and has retired, as of August 1, 2001, as principal of the Assunpink Center at the Mercer County Technical Schools.¹

Initially, it must be emphasized that pursuant to *N.J.S.A.* 18A:12-29(c) and *N.J.A.C.* 6A:3-9.1, the determination of the Commission as to violation of the School Ethics Act is **not reviewable by the Commissioner** herein. Only the Commission may determine whether a violation of the School Ethics Act occurred. The Commissioner's jurisdiction is limited to reviewing the sanction to be imposed following a finding of a violation by the Commission. Therefore, this decision is restricted solely to a review of the Commission's recommended penalty.

Upon a thorough review of the record, the Commissioner determines to accept the Commission's recommendation that censure is the appropriate penalty in this matter for the reasons expressed in the Commission's decision. In so ruling, the Commissioner notes that, in recommending the penalty of censure, the Commission had the opportunity to fully investigate the facts presented and, thus, was in the optimum position to determine whether respondent inadvertently or knowingly violated the School Ethics Act, and to weigh the effects of aggravating and mitigating circumstances.² Therefore, the Commission's recommended penalty in this matter will not be disturbed.

¹ It is noted that a comment was also filed by Frank Ferrante, the original complainant in this matter. As a complainant has no standing to appeal either the Ethics Commission's finding of an Ethics Act violation or the appropriate penalty (*see In the Matter of Frank Pannucci, Board of Education of Brick Township, Ocean County*, decided by the State Board January 19, 2000), such comment was not considered.

² Respondent's challenge to the Commission's authority to impose a penalty on him, since he is no longer a board member nor principal of Assunpink Center at the Mercer County Technical Schools, is deemed meritless, inasmuch as the recommended penalty is for an action taken when he *was* a sitting board member.

Accordingly, IT IS hereby ORDERED that Bruce White be censured as a school official found to have violated the School Ethics Act.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: 9/10/2001

Date of Mailing: 9/17/2001

³ This decision, as the Commissioner's final determination may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:2-1.1 et seq.* Commissioner decisions are deemed filed three days after the date of mailing to the parties.